

# State of South Dakota

## EIGHTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2010

590R0521

### SENATE BILL NO. 133

Introduced by: Senators Gant, Abdallah, Hansen (Tom), and Jerstad and Representatives  
Lederman, Fargen, Feickert, Greenfield, Kirkeby, and Russell

1 FOR AN ACT ENTITLED, An Act to revise certain procedures for handling complaints  
2 regarding open meeting requirements.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 1-25 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 If a complaint alleges a violation of this chapter by a board of county commissioners, the  
7 state's attorney shall take one of the following actions:

8 (1) Prosecute the case pursuant to Title 23A;

9 (2) Determine that there is no merit to prosecuting the case. The attorney general shall  
10 use the information for statistical purposes and may publish abstracts of the  
11 information as provided by § 1-25-6;

12 (3) Send the complaint and any investigation file to the South Dakota Open Meetings  
13 Commission for further action; or

14 (4) Refer the complaint to another state's attorney or to the attorney general for action  
15 pursuant to § 1-25-6.



Section 2. That § 1-25-7 be amended to read as follows:

1-25-7. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney, and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.